



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

S. T. Ellis, Esq.
City Attorney
City of McDonough
35 Griffin Street
McDonough, Georgia 30253

DEC 3 1984

Dear Mr. Ellis:

This is in reference to the districting of councilmanic districts for the City of McDonough in Henry County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on June 13, 1984; supplemental information was received on November 11 and 20, 1984.

We have considered carefully the materials you have submitted, together with relevant 1980 Census data, the events surrounding the enactment of this change, the information in our Section 5 files with respect to the preclearance of related changes, and comments and information provided by other interested parties. At the outset we note, as we did in our November 22, 1982, letter of objection to the city's earlier plan, that according to the 1980 Census, the population of the City of McDonough is 2,778 persons, of whom 1,047 (37.7%) are black. Most of the city's black population reside in the southern portion of the city in a relatively compact geographic area.

In our November 22 letter, we pointed out that a three-way fragmentation of the black community appeared calculated to carve up the city's black voting strength among several districts in an unnatural and wholly unnecessary way. As we pointed out at that time, preclearance of such a configuration could not occur in the absence of some nonracial explanation for so high a degree of fragmentation of the city's black population.

To our surprise, we learned only recently that this stated concern with the city's prior submission was apparently never communicated to the chairperson of the committee that drafted the current plan. That plan, as you know, retains the three-way fragmentation of the black community, and indeed adopts a configuration that, surprisingly, does not even allow that heavily black area one district with an effective voting majority. No nonracial explanation was offered for this particular configuration, and our request for supplemental information to justify the plan was summarily brushed aside and not answered.

We are advised that at least two alternative plans minimizing fragmentation of the black community were submitted to the city. While there appears to be some confusion regarding who, if anyone, on the drafting committee may have been aware of those alternative plans, they were plainly transmitted and should have been considered. What they demonstrate is that a redistricting of the city with less fragmentation of the black community is entirely possible and can be accomplished with more compact and contiguous districts -- and that is the case whether the city uses one of the alternatives or some variant of either of them.

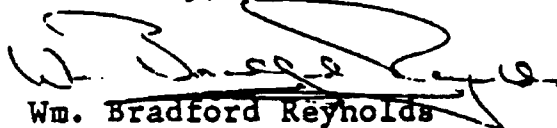
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of establishing that its voting change is without racially discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In the circumstances discussed above, the city has failed to satisfy its burden. Its proposed plan not only maintains the three-way fragmentation of the city's black population that undid the earlier submission, but it proceeded in the process to minimize black voting strength within each district to a far greater degree, and, despite repeated efforts to obtain a nonracial explanation for so facially suspect a redistricting, no meaningful response was forthcoming.

Accordingly, on behalf of the Attorney General, I must interpose an objection to the submitted districting plan. The Voting Rights Act does not require the city to adopt any particular configuration of districts, but the city must provide persuasive evidence that the plan chosen has neither the purpose nor the effect of minimizing the potential for full participation by all in the electoral process. We stand ready at any time to provide you with further explanation of our concerns and otherwise to share with the city's planners the benefit of our analysis.

Of course, as provided by Section 5 of the Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this plan has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race. In addition, the guidelines (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make this plan legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of McDonough plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Poli A. Marmolejos (202/724-6718), Attorney Supervisor in the Section 5 Unit of our Voting Section.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Bradford Reynolds", is written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division